

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department of Agriculture and Industries

Chapter No.: 80-8-1

Chapter Title: Soybean Promotional Referendum

X New; Amend; x Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? N/A

Is there another less restrictive method of regulation available that could adequately protect the public? N/A

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

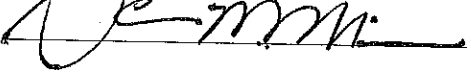
Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have any economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official
I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date: 12-12-2017

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES

NOTICE OF INTENDED ACTION

Agency Name: Alabama Department of Agriculture and Industries

Chapter NO. & Title: 80-8-1 Soybean Promotional Referendum

Intended Action: To Repeal and Replace with New Chapter

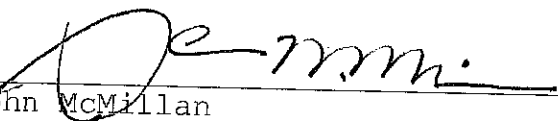
Substance of Proposed Action: To provide uniformity with check-off commodities so that the rules governing the referendum are clear and unchanging between commodities and conform entirely to the Code of Alabama.

Time, Place, Manner of Presenting Views: Views may be presented in writing to the contact person below or in person on Tuesday, February 13, 2018, at 10:00 a.m., in the Auditorium of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

Final Date for Comment and Completion of Notice: February 13, 2018.

Contact Person at Agency: N. Gunter Guy Jr., Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

12/12/2017
Date


John McMillan
Commissioner of Agriculture
and Industries

Repealed

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
MARKETING
ADMINISTRATIVE CODE
CHAPTER 80-8-1
SOYBEAN PROMOTIONAL REFERENDUM
"REPEALED"

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80-8-1-.01 Purpose. The purpose of this Chapter is to set up procedures and rules governing the referendums conducted under the provisions of Code of Ala. 1975, §§2-8-80 through 2-8-103, for soybean promotional programs.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-8-100.

History: Filed April 19, 1982. **Amended:** Filed February 23, 1989.

80-8-1-.02 Previous Regulation Withdrawn And Amended. That regulation entitled Rules, Regulations And Procedure For Referendum, Soybean Promotional Program, dated December 18, 1979, is hereby repealed and withdrawn. Chapter 80-8-1 amending the above is submitted in its place. **Author:** Charles H. Barnes
Statutory Authority: Code of Ala. 1975, §2-8-100.

History: Filed April 19, 1982. **Amended:** Filed February 23, 1989.

80-8-1-.03 Referendum To Be Held And Notice To Be Given.

(1) The Alabama Farmers Federation, Soybean Division, the nonprofit association authorized under Code of Ala. 1975, §2-8-84, shall be authorized to conduct a statewide referendum to allow soybean producers to vote upon the question of whether they favor an assessment of 1 cent per bushel to be deducted from the sale price of their soybeans for the purpose of financing a soybean promotional program to be conducted through research, market development, education, advertising and other methods.

(2) This referendum shall be held in 1989 during that period as provided under Code of Ala. 1975, §2-8-90.

(3) Notice of said referendum by publication or otherwise shall be given by the association as provided under Code of Ala. 1975, § 2-8-86.

(4) The amount of the assessment shall be set out in the notice and shall not exceed the amount of 1 cent per bushel.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-8-100.

History: Filed April 19, 1982. **Amended:** Filed February 23, 1989.

80-8-1-.04 **Polling Places And Time Of Operation.**

(1) The referendum shall be held by providing voting facilities at the county seat in each of the 67 counties of the

State of Alabama. In those counties where there is a large number of soybean producers and if for other reasons it may not be convenient for soybean producers to vote at the county seat, then additional voting facilities may be provided in such counties at convenient locations such as city hall, community centers, local offices of the County Farmers Federation or other locations to be selected by the County Referendum Committee. The exact location of the voting places in each county shall be given publicity in order that all soybean producers will have an opportunity to vote. The Alabama Farmers Federation, Soybean Division, shall furnish all necessary ballots and county election supplies and bear all expenses necessary and incident to holding the referendum.

(2) The polls shall be open for voting from 8:00 a.m. through regular business hours on the date of the referendum.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-8-100.

History: Filed April 19, 1982. **Amended:** Filed February 23, 1989.

80-8-1-.05 **Procedure For Polling And Handling Results Of The Poll.**

(1) Each polling place shall have not less than two individuals who shall serve as poll holders to be in charge of and supervise the voting. Such polling places shall have a voter's register and those who are eligible to vote shall sign his or her name upon such register and enter thereon his or her address together with the number of acres of soybeans harvested the preceding year or already planted in the year of the referendum.

(2) Producers of soybeans shall be furnished with a printed ballot for voting by secret ballot and after the vote is cast, such ballot shall be folded, deposited and kept in a ballot box or other similar container suitable to serve as a ballot box.

(3) As soon as the last voter has voted and the polls close, the poll holders shall immediately open the ballot boxes, count and tabulate the results of the voting and certify the results thereof to the chairman of the County Soybean Committee. Any interested individual who cares to be present when the ballots are counted or tabulated may be present and observe such vote counting and tabulation of results.

(4) Upon the conclusion of paragraph (3) above, a poll holder shall deliver the ballots in a sealed container to the chairman of the Soybean Referendum Committee with the certification of the results. The county chairman and at least two other members of the County Soybean Referendum Committee shall then tabulate and certify the results received from each polling place in the county to the State Soybean Referendum Committee of the Alabama Farmers Federation. The county chairman will also deliver or forward all county ballots in the sealed containers, after tabulation of voting results, to the director of the Soybean Division of the Alabama Farmers Federation. The State Soybean Referendum Committee of the Alabama Farmers Federation shall upon receipt of certified results from each county tabulate, publicly declare and announce the results of the statewide referendum within a period of ten (10) days following receipt of the results from every county in Alabama.

(5) A certified copy of the results of the statewide referendum shall be forwarded to the Commissioner of Agriculture and Industries.

Author: Charles H. Barnes

Statutory Authority: Code of Ala. 1975, §2-8-100.

History: Filed April 19, 1982. **Amended:** Filed February 23, 1989.

80-8-1-.06 **Persons Entitled To Vote.**

(1) All persons subject to the deduction of 1 cent per bushel from the sale price of their soybeans are entitled to vote in the referendum upon the question of whether they favor an assessment per bushel to be deducted from the sale price of their soybeans for the next five crop years, provided such persons produced soybeans during the preceding year or planted soybeans during the referendum year.

(2) Each soybean producer shall have one vote where the production operation is conducted by an individual, partnership, corporation, estate or other legal entity. If the soybean production operation is conducted as a family enterprise and different members of the family produce soybeans which are sold separately, each such producer is entitled to one vote. If the soybean production operation is conducted by a partnership, corporation, estate or other legal entity, then one individual shall be designated to vote for such a production operation.

Where soybeans are produced on lands of another on a share crop or share tenant basis and such share cropper receives beans which he sells, then such share cropper is entitled to vote in the referendum.

(3) Each eligible voter shall vote in person at an established polling place. Proxy voting or voting by mail shall not be permitted.

Author:

Statutory Authority: Code of Ala. 1975, §2-8-100. **History:** Filed April 19, 1982. **Amended:** Filed February 23, 1989.

New

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
ADMINISTRATIVE CODE

MARKETING

CHAPTER 80-8-1
SOYBEAN PROMOTIONAL REFERENDUM "New Chapter"

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80-8-1-.01 Purpose.

The purpose of this Chapter is to establish the rules and procedures to govern the conduct of a referendum under the terms of Code of Alabama. This referendum will allow soybean producers to vote an assessment against themselves which will be used for promotion of the soybean industry in Alabama.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-80, 2-8-100

History: Filed:

80-8-1-.02 Referendum to be Held

Pursuant to Code of Ala. 1975, §2-8-82 the Association certified by the State Board of Agriculture and Industries shall hold a referendum amongst producers of soybeans. At that time Alabama soybean producers will vote and determine if they favor paying for a period of 5 years from the date of the referendum, an assessment in an amount not to exceed the limit set forth in the Code of Ala. 1975, §2-8-89.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-82

History: Filed:

80-8-1-.03 Conduct of Referendum; Payment of Expenses

- (1) The Association certified by the State Board of Agriculture and Industries shall have the responsibility to arrange, manage and conduct any referendums.
- (2) All expenses and costs necessary to conduct any referendums shall be borne by the Association certified by the State Board of Agriculture and Industries.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-87

History: Filed:

80-8-1-.04 Notice Requirements

Not less than 30 days before any referendum is held, the Association certified by the State Board of Agriculture and Industries shall give notice of such referendum by publishing same in an established farm publication and by mailing a written notice to each county extension coordinator in the area covered by the referendum. The notice shall include, at minimum, the geographic area covered by the referendum, the date of the referendum, the hours that the polls will be open, the addresses of polling places, the rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected and the general purposes for which the assessment is collected.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-86

History: Filed:

80-8-1-.05 Polling Places and Time of Operation

- (1) Voting facilities shall be provided in counties in which soybeans are produced or processed. Additional facilities may be provided should the Association certified by the State Board of Agriculture and Industries find same advisable.
- (2) Polls shall be open from 8:00 a.m. to 4:00 p.m. on the date of the referendum.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-100

History: Filed:

80-8-1-.06 Persons Eligible to Vote; Voting Requirements

- (1) All producers of soybeans who in the last crop year produced soybeans who shall be subject to an assessment levied under this article shall be eligible to vote in the

referendum. If there is any question of eligibility, the Association certified by the State Board of Agriculture and Industries is authorized to request any additional information permitted by law.

- (2) Each producer shall have one vote.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-8-88

History: Filed:

80-8-1-.07 Polling Procedures; Certifying of Results.

- (1) There shall be two persons at each polling place who shall serve as poll holders. Such poll holders shall be in charge of and supervise the voting.
- (2) Each polling place shall have a voting register in the form of an affidavit. Prior to casting his or her vote, each person who is entitled to vote in the referendum shall sign his or her name to the register. Also, each voter shall write in the register his or her address and the total number of acres they had in production of soybeans in the last year.
- (3) Each producer shall be provided a ballot. The producer will mark whether he approves or disapproves the promotional program.
- (4) Votes shall be cast by secret ballot. Each marked ballot shall be deposited in a ballot box or other designated container where it will be kept until such time as it is counted.
- (5) As soon as the polls close and the last vote is cast, the poll holders shall open the ballot boxes or other containers, count each ballot and tabulate the results of the count. They will then immediately report the results to the Association certified by the State Board of Agriculture and Industries. Following the referendum and within 10 days thereafter, the Association certified by the State Board of Agriculture and Industries shall publicly declare and announce the results.

Author: N. Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §§2-8-84, 2-8-100

History: Filed: